

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.C.M.P.No.249 OF 2018

ORDER:

This petition is filed under Section 24 of the Code of Civil Procedure, 1908, to withdraw G.O.P.No.1106 of 2017 from the file of the Family Court – cum – V Additional District Judge, Visakhapatnam, and transfer the same to the file of the Family Court, Eluru.

2. Heard the learned counsel appearing for both the parties and perused the material on record.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 27.12.2007 at Eluru as per Mohammedan Customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and the respondent were blessed with two children. For one reason or the other, disputes arose between the petitioner and the respondent, therefore, the petitioner has been residing in Eluru Town along with her two children. While things stood thus, the respondent filed G.O.P.No.1106 of 2017 on the file of the Family Court – cum – V Additional District Judge, Visakhapatnam, for custody of the children.

4. As per the averments made in the petition, the children are residing with the petitioner at Eluru. At the time of arguments, both the learned counsel in all fairness submitted that the children are residing with the petitioner at Eluru. A perusal of Section 9 of the Guardians and Wards Act, 1890, at a glance clearly demonstrate that the person, who seeks custody of the children, has to file an application before the Court in whose jurisdiction the children are residing. Admittedly, the children

are residing in Eluru along with their mother. Viewed from the factual or legal aspects, this is a fit case to allow the petition.

5. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. G.O.P.No.1106 of 2017 is withdrawn from the file of the Family Court – cum – V Additional District Judge, Visakhapatnam, and transferred to the file of Family Court, Eluru, for disposal in accordance with law.

There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this petition shall stand closed.

17th December, 2018
MD

T. SUNIL CHOWDARY, J

